



State of Washington
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdca.wa.gov

9:30 a.m.
July 22, 2010

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Dave Seabrook, Chair
Barry Sehlin, Vice Chair
Jennifer Joly, Secretary
Jim Clements, Member

STAFF PRESENT

Doug Ellis, Interim Executive Director
Nancy Krier, General Counsel
Michael Smith, Chief Technology Officer
Linda Dalton, Sr. Asst. Attorney General
Lori Anderson, Communication & Outreach Officer
Phil Stutzman, Director of Compliance
Kurt Young, Compliance Officer
Jana Greer, Confidential Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Dave Seabrook at 9:30 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Commissioner Comments

No comments were expressed.

Minutes

Motion 10-108

Moved by Commissioner Seabrook, seconded by Commissioner Joly:

The Commission adopts the minutes of June 24, 2010.

The motion passed unanimously.

Rule Making

Discussion and possible approval of draft language amending:

- WAC 390-13-100
- WAC 390-16-011
- WAC 390-16-012
- WAC 390-16-041
- WAC 390-16-115

Lori Anderson presented draft rule amendments to implement SB 6243, which eliminated provisions for filing campaign disclosure reports at locations other than the PDC.

Staff recommends the approval of the proposed amendments to WAC 390-13-100, 390-16-011, 390-16-012, 390-16-041, 390-16-115, 390-19-030 and the proposed repeal of WAC 390-16-314.

- WAC 390-19-030
and the repeal of
- WAC 390-16-314

Motion 10-109

A public hearing for the rules is anticipated for September 23, 2010.

Moved by Commissioner Joly, seconded by Commissioner Clements:

The Commission accepts the proposed staff recommendation on the amendments to WAC 390-13-100, WAC 390-16-011, WAC 390-16-012, WAC 390-16-041, WAC 390-16-115, WAC 390-19-030, and the proposed repeal of WAC 390-16-314 and requests the staff to move forward with rulemaking.

The motion passed unanimously.

2011 Legislation Update

Doug Ellis discussed upcoming budget issues and agency-related legislation for 2011.

- The Office of Financial Management (OFM) projections and the anticipated budget shortfalls going into January 2011.
- Recent news on FMAP funding and possible 3%-5% across the board reductions for the state agencies.
- Possible FY 2011 agency supplemental budget requests.

Other issues discussed:

- Gubernatorial appointment in January 2011 for Commissioner Joly.
- Potential agency request for:
 - Telephone advertising/Push polling.
 - Housekeeping of 2SHB 2016.
- Other PDC-related legislation that may be introduced during the 2011 session:
 - Electronic filing of lobbyist reports.
 - Commissioner Clements will review the proposed legislation and report back to the Commission at a later date.
 - Public funding for Supreme Court campaigns.
 - Sole source contracting and political contributions.

Advisory Matters

1. Push Poling

Nancy Krier continued the discussion from the June Commission meeting, reviewing the option of possible legislation to address push polling, possibly including telephone campaign advertising.

She summarized the past information provided to the Commission and presented options on how to proceed.

The Commission asked staff to prepare draft agency request legislation for review at the August 2010 meeting.

Motion 10-110

Moved by Commissioner Joly, seconded by Commissioner Clements:

The Commission will proceed with proposing agency legislation on the topic of push polling and/or telephone advertising.

The motion passed unanimously.

2. 2011-13 Strategic Planning

Doug Ellis continued the discussion from the May 2010 meeting highlighting for the Commission the items the agency may move forward on.

The 2011-13 Strategic Plan will be reviewed and possibly finalized at the August Commission meeting.

Reporting Modifications

New

1. Glenn Phillips, Municipal Court Judge, City of Kent. Judge Phillips is requesting a modification that would exempt him from disclosing his home address and an undeveloped lot owned by him and his spouse.

Kurt Young summarized the reporting modification request of Mr. Phillips.

Mr. Phillips participated via conference call and was available for questions from the Commission.

Mr. Phillips, as a Judge that presides over criminal and civil cases, has been threatened in the past and for security reasons requested the reporting modification.

Staff recommends approval of the reporting modification in accordance with the PDC interpretation 02-04 and WAC 390-28-100 (1)(3)(d).

Motion 10-111

Moved by Commissioner Clements, seconded by Commissioner Sehlin:

The Commission grants a partial reporting modification as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

2. Tamra M. Smilanich, Candidate for State Senator for the 37th Legislative District in 2010. Ms. Smilanich is requesting a modification that would exempt her from disclosing the address of her personal residence and another parcel, and the name, address and amounts of all mortgages and other creditor information.

The motion passed unanimously.

Kurt Young summarized the reporting modification request of Ms. Smilanich noting that she, in the past, had interned as a Juvenile Probation Counselor and assisted at the Department of Corrections (DOC) in the sex offender unit.

Mr. Young stated that the Commission has never addressed a modification request for non-disclosure of creditor or mortgage information.

Ms. Smilanich participated via conference call and was available for questions from the Commission.

She stated that she was an intern for DOC in 2000 and held an internship for a year. She is now employed with Century 21 as a Realtor.

Staff recommends denial of the request for partial reporting of the name, address and amounts of all mortgages and other creditor information.

Motion 10-112

Moved by Commissioner Sehlin, seconded by Commissioner Joly:

The Commission denies the partial reporting modification as requested.

The Commission finds that literal application would not cause a manifestly unreasonable hardship on the applicant and that a limited modification would frustrate the purposes of the act.

The motion to deny passed unanimously.

Reporting Modifications Renewals (No Change)

1. Dan Kristiansen, State Representative, 39th Legislative District.

Kurt Young presented the requests for reporting modification with no changes.

Staff recommends approval of the request for reporting modification renewal in accordance with PDC interpretation 02-06 and WAC 390-28-100 (1) (d) (3) and (1) (e).

Motion 10-113

Moved by Commissioner Sehlin, seconded by Commissioner Joly:

The Commission grants a partial reporting modification as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

2. Laura Inveen, Superior Court Judge, King County.

Motion 10-114

The motion passed unanimously.

Staff recommends approval of the request for a reporting modification renewal in accordance with PDC interpretation 02-06 and WAC 390-28-100 (1) (e).

Moved by Commissioner Clements, seconded by Commissioner Joly:

The Commission grants the partial reporting modification as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Report on 2010 Ballot Measures

Tony Perkins presented an overview of the 2010 campaign contributions and expenditures activity with respect to ballot measures.

Executive Session / Working Lunch

The Commission entered into executive session at 12:00 p.m. to discuss pending and potential litigation with legal counsel until 12:55 p.m.

The Commission returned to public session at 1:00 p.m.

Enforcement Matters

1. *Washington Association of Realtors*, PDC Case #10-003, alleged violations of RCW 42.17.565 by not filing timely and complete C-6 reports of Electioneering Communications for expenditures incurred within 60 days of the 2008 general election.

Phil Stutzman reviewed the alleged violations in the case.

The Realtors conducted three postcard mailings in October of 2008 that met the definition of Electioneering Communications.

The investigation determined that the Washington Association of Realtors filed a C-6 report of Electioneering Communications on October 30, 2008, between three and ten days late. The investigation also determined that the C-6 was incomplete in that it did not specify Chris Gregoire as the candidate identified in the postcards or indicate whether she was supported or opposed by the mailings. However, the Realtors substantially complied with PDC staff's instructions by disclosing the association's expenditures as Electioneering Communications, including the amount and recipients of the expenditures, on a C-6 report filed prior to the election.

Staff recommended that the allegations against the Realtors for failure to file timely and complete reports of

Electioneering Communications be dismissed, and that the Realtors be cautioned to fully comply with the disclosure requirements when sponsoring qualifying Electioneering Communications in future election campaigns.

Motion 10-115

Moved by Commissioner Clements, seconded by Commissioner Joly:

The Commission accepts the staff recommendation to dismiss the allegations and caution the Realtors and the Association's affiliated political committees to file timely, complete C-6 reports of Electioneering Communications in future elections.

The motion passed unanimously.

2. *Realtors Political Action Committee and Realtors Quality of Life PAC*, PDC Case #09-080, alleged violations of RCW 42.17.640 by making over-limit in-kind contributions to the 2008 Dino Rossi Campaign for Governor. 2008 Dino Rossi Campaign for Governor, PDC Case #09-082, alleged violations of RCW 42.17.640 by accepting over-limit in-kind contributions from Realtors Political Action Committee and Realtors Quality of Life PAC.

Phil Stutzman reviewed the alleged violations in the case.

On January 23, 2008, Dino Rossi was interviewed, on camera, by Realtors' staff encouraging potential viewers to contribute to the Realtors Political Action Committee (R-PAC). The Realtors produced two video clips from the taped interview that featured Mr. Rossi.

The investigation determined that the first video clip encouraged the viewer to contribute to R-PAC and get involved in campaigns. However, the video clip was never used. The second video clip encouraged the viewer to get involved in campaigns and to vote. It was distributed as a get-out-the-vote message on October 30, 2008, and contained no solicitation by Mr. Rossi for R-PAC fundraising.

The investigation determined that Mr. Rossi did not provide fundraising assistance to the Realtors PACs, and no over-limit contribution was made by the Political Committees or accepted by the 2008 Dino Rossi Campaign for Governor.

Staff recommended that the allegations against R-PAC, RQL-PAC and the 2008 Dino Rossi Campaign for Governor be dismissed.

Motion 10-116

Moved by Commissioner Sehlin, seconded by Commissioner Joly:

The Commission accepts staff's recommendation to dismiss the allegations against R-PAC and RQL PAC with respect to the Dino Rossi campaign, PDC Case No. 09-080, and Dino Rossi, PDC Case No. 09-

082.

Commissioner Joly, Commissioner Sehlin, and Commissioner Clements voted to dismiss the allegations.

Chair Seabrook voted against the motion to dismiss the allegations.

The motion passed.

Staff Reports

Assistant Director

In addition to his submitted report, Mr. Ellis discussed the agency budget status and compliance case status.

Chief Technology Officer

In addition to his submitted report, Mr. Smith updated the Commission on the new rollout of the agency website and provided information from the draft Department of Information Services report for the new state data center. A final report will be out at the end of the month.

General Counsel

Nancy Krier had no additional comments.

Adjournment

Chair Seabrook adjourned the meeting at 1:49 p.m.

Approved by the Commission on August 26, 2010.